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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,802	11/01/2007	Geoffrey Carlisle	P/382-155	8046
2352 7590 08/16/2010 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
EXAMINER HUJAZ, OMAR F				
ART UNIT 3633		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/577,802

**Applicant(s)**

CARLISLE, GEOFFREY

**Examiner**

OMAR HIJAZ

**Art Unit**

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/GS/US)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 4/28/2006

### **DETAILED ACTION**

This communication is a first Office Action Non-Final rejection on the merits. Preliminary amendment received on 04/28/2006 has been acknowledged. Claims 2-10 have been amended. Claims 1-12 are now pending and have been considered below.

#### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "support tower", the "triangular base", and the "foot at each corner" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 9, the recitation "a support tower including a triangular base having a foot at each corner, at least two of the feet being adapted to be anchored to the ground" renders the claim indefinite because it is unclear as to how this footing arrangement is interacted with respect to the modular formwork system. The connection is unclear.

As per claim 10, the recitation "such that between adjacently located modules water is caused to follow a tortuous path, thereby restricting penetration of water" renders the claim indefinite because it is unclear as to what defines a "tortuous path". In addition, it is unclear how a "tortuous path" would be "restricting penetration of water".

4. Claims 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that they fail to point out what is included or excluded by the claim language. These claims are omnibus type claims.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 and 10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by De Zen (U.S. Patent No. 5,729,944).

As per claim 1, De Zen teaches a modular formwork system (abstract) comprising: a plurality of building formwork modules (8), each module being arranged to accommodate wall forming material such that the wall forming material is able to solidify in the module and thereby provide a rigid module (the components are formed with openings along a length which serve to allow concrete to flow; abstract; it is further understood that concrete provides a rigid module); and a spacer (40) comprising a body portion (four sides with the openings therein) receivable between adjacently disposed formwork modules so as to retain the spacer relative to the formwork modules during use (as illustrated, the spacer 40 is received and retained between adjacent modules; figure 7) a first projection (42), the first projection extending outwardly of the formwork modules when the body portion is disposed during use between adjacent formwork modules (as illustrated, the projections 42 extend outwardly; figure 7), and the first projection including first mounting means (41) spaced from the building modules (figure 7).

As per claim 2, De Zen teaches the spacer includes a second projection (projection 42 on the opposite side of the one described above) disposed on a side of the body portion opposite to the first projection (as illustrated, there is a second projection 42 on the opposite side of the first projection; figure 7), the second projection including second mounting means (41) spaced from the building modules (as illustrated, the second mounting means 42 is spaced away from the building module; figure 7).

As per claim 3, De Zen teaches each module includes lateral sides for abutting against lateral sides of other building formwork modules (as illustrated, the modules 8 have lateral sides 14 which are adapted to abut against other modules; figure 7), each lateral side including at least one flow hole (17) arranged such that when a lateral side of a building formwork module is disposed in abutting aligned relationship with a lateral side of another building module wall, forming material is able to flow through the flow holes between the building formwork modules (abstract).

As per claim 10, De Zen teaches the modules are configured such that between adjacently located modules water is caused to follow a tortuous path (the coextension of thermoplastic skin covers and seals the outer exposed surfaces of the structural component against the ingress of moisture; col. 4, lines 60-65).

7. Claims 4-9, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over De Zen (U.S. Patent No. 5,729,944) in view of Leblang (U.S. Patent No. 6,401,417).

As per claim 4, De Zen fails to disclose a brace arrangement comprising a first brace member and a second brace member for defining a brace channel in which the

building modules are to be held in vertical alignment during the construction of a wall, the brace arrangement being arranged to hold the modules such that a portion of the wall forming material solidifies within the brace channel.

Leblang discloses a concrete form structure (abstract) a brace arrangement (420/422) with a first brace member (420) and a second brace member (422) for defining a brace channel in which the building modules are to be held in vertical alignment during the construction of a wall (figure 17).

Therefore from the teaching of Leblang, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the concrete formwork of De Zen to include a brace arrangement with a first brace member and a second brace member defining a channel as taught by Leblang in order to further stabilize the form assembly.

As per claim 5, De Zen in view of Leblang discloses said portion of the wall forming material forms a continuous beam (it is understood that when concrete is poured into the formwork assembly of De Zen and into the channel portion of the De Zen and Leblang combination, a solid beam would be created as the concrete solidifies).

As per claim 6, De Zen in view of Leblang discloses the wall forming material is able to be poured into the brace channel and flow therefrom into the modules under action of gravity (it is understood that concrete would flow under gravity through the openings 17 of De Zen and into the channels of the De Zen and Leblang combination).

As per claim 7, De Zen in view of Leblang discloses means for selectively moving the brace arrangement in a horizontal plane substantially aligned with the ground (it is well known in the art to move or adjust structural components in order to accommodate for changes in design or unforeseen design aspects; furthermore, the braces of Leblang in the De Zen and Leblang combination would be capable of being moved in a horizontal plane, aligned with the ground, before the brace members are finally anchored in place).

As per claim 8, De Zen in view of Leblang discloses the first and second brace members each comprise a C-section member (as illustrated, the brace members are C-shaped; figure 17 of Leblang).

As per claim 9, De Zen in view of Leblang discloses the system includes a support (424a) including a base (426), being adapted to be anchored to the ground (as illustrated, the base 426 is anchored to the ground; figure 17 of Leblang).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rutkowski et al. (U.S. Patent No. 4,324,082) discloses a panel system with a spacer element having first and second opposing projections and mounting means.

Dinzel (U.S. Patent No. 7,703,248) discloses a formwork system with a spacer element having projections and having holes therethrough.



Miller (U.S. Patent No. 3,483,665) discloses a structural assembly including a body portion and two opposing projecting portions which have first and second mounting means.

Crumbaugh et al. (U.S. Patent No. 3,872,639) discloses a structural assembly including a body portion and a projecting portion which has a mounting means.

Rosenkrantz (U.S. Patent No. 5,704,509) discloses a panel assembly with a spacer element located between two modules and having two opposing projections.

Albrecht (U.S. Patent No. 5,848,508) discloses a panel assembly with a spacer located between modules, such that the spacer projections extend outwardly of the modules.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR HIJAZ whose telephone number is (571)270-5790. The examiner can normally be reached on Mon-Fri 9:30 a.m. - 7:00 p.m. (alternating Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OFH

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